INTRODUCTION

1 The Open University conducts its business in a legal and ethical manner. University officers, employees, other members of the University and any other associated person acting on the University’s behalf are responsible for acting honestly and with integrity by ensuring that their activities, interests and behaviours do not conflict with these obligations, regardless of their seniority. These parties are referred to as ‘staff’ below.

2 This policy, based on the anti-bribery legislation (the Bribery Act 2010), requires that staff must not either directly or indirectly:

   a) Offer, give, solicit or accept any bribe, either in cash or any other form of inducement, to or from any person or company, wherever they are located and whether they are a public official or body, or private person or company.

   b) Gain or retain any commercial, contractual or regulatory advantage through unethical or illegal means when conducting business on behalf of the University or its subsidiaries.

3 Staff and associated persons must understand and strictly comply with the UK anti-bribery laws in all countries of the world.

DEFINITIONS

4 Bribery is the offer, promise, giving, demanding or accepting of an advantage as an inducement for an action which is illegal, unethical, a breach of trust or the improper performance of a contract. Inducement can take the form of gifts, hospitality, fees, rewards, jobs, internships, examination grades, favours or other advantages. It does not matter whether the bribe is given or received directly or though a third party or whether it is for the benefit of the recipient or some other person.

5 Corruption is the misuse of entrusted power for personal gain.

6 An associated person provides services to the University or acts on the University’s behalf and could be an employee of any type, consultants, agents and other forms of intermediaries and subsidiaries. Undergraduate and postgraduate students are not normally considered as associated persons unless they are themselves contracted by the University to provide a service. However, research students are likely to be considered as associated persons in respect of the conduct of their research and for activities such as fieldwork.

7 A foreign or government official could include a public official, whether foreign or domestic; a political candidate or party official; a representative of government owned or majority controlled organisation; or an employee of a public international organisation.

8 Facilitation payments are unofficial financial payments or other advantages (either directly or indirectly) made to secure or expedite the performance of a routine or necessary action to which the payer of the facilitation payment has legal or other
PRINCIPLES

9 This policy applies to all of the University's activities and operations and to all of its dealings and negotiations with third parties in all countries in which its employees, agents, partners and associates operate. All employees and individuals working on behalf of, under contract from or in collaboration with any part of the University or with its employees are required to comply with this policy. This includes research students as appropriate.

10 The University has a zero tolerance approach to bribery and corruption and as such, all forms of bribery and corruption are prohibited. A bribe does not actually have to take place – just promising to give or agreeing to receive a bribe is prohibited.

11 The University will address risks of bribery by ensuring adequate and proportionate measures are developed and implemented to mitigate them.

12 Arrangements with third parties will be subject to clear contractual terms, including specific provisions requiring them to comply with minimum standards and procedures relating to bribery and corruption. The University will not engage, or continue business with, any individual or third party who we know or reasonably suspect of engaging in bribery or corruption.

13 No staff member or associated person will suffer penalty or other adverse consequences for refusing to pay bribes even if a refusal may result in loss of business or a delay in proceedings.

14 The prevention, detection and reporting of bribery are the responsibility of all staff. They should raise any concerns or allegations of bribery or corrupt activity with their Head of Unit or report any such concerns to the University Secretary, Finance Director and Chief Auditor. Where staff feel they are not able to report in this way, they should report them through the University’s Public Interest Disclosure (Whistleblowing) Policy.

15 The University will ensure it takes appropriate action in response to any reported incidents of bribery or corruption. Investigations of bribery or corrupt activity will follow the principles and procedures set out in the Anti-Fraud Policy. Failure to comply with this Policy will lead to disciplinary action and proven allegations will lead to disciplinary action resulting in summary dismissal. In relevant cases the police and the Serious Fraud Office (SFO) will be informed as certain offences carry criminal liability for individuals concerned and sanctions include significant fines and/or imprisonment.

PROPORTIONATE PROCEDURES

16 The University will ensure it has procedures in place to prevent bribery by staff and other persons associated with it, including research students as appropriate, which are proportionate to the bribery risks it faces and to the nature, scale and complexity of the University’s activities.

RISK ASSESSMENT

17 Unit managers or their nominee are responsible for ensuring risks are assessed and appropriate action taken to comply with this Policy, including reporting the identified risks and implementation of actions within their Business Plans.

DUE DILIGENCE
18 The University will apply due diligence procedures, taking a proportionate and risk-based approach, in respect of persons and organisations that perform or will perform services for or on behalf of the University in order to mitigate identified bribery risks.

19 Where appropriate, unit managers or their nominee will complete sufficient due diligence when entering into arrangements with others to ensure they are not acting corruptly and to periodically monitor their performance to ensure ongoing compliance. They will take appropriate action in response to any information uncovered as a result of due diligence which gives rise to concern and report any such actions to the University Secretary, Director of Finance or Chief Auditor.

COMMUNICATION

20 The University ensures that its bribery prevention and associated policies and procedures are embedded and understood throughout the organisation through internal and external communication.

21 Unit managers or their nominee are responsible for ensuring the communication of the University’s Anti-Bribery and Corruption Policy and other relevant policies to associated person(s). Unit managers will also monitor and review their procedures and action plans to ensure their suitability, adequacy and effectiveness in relation to this Policy and implement improvements as appropriate.

TOP LEVEL COMMITMENT

22 This Policy is reviewed annually to ensure fitness for purpose by the Audit Committee on behalf of the Council and has the full support of the Vice-Chancellor and senior management of this University.

USEFUL REFERENCES

23 Internal to The Open University
   a) Behaviours and Standards at Work Policy
   b) Hospitality and Gifts Policy
   c) Procurement Policy
   d) Fraud Response Policy
   e) Whistleblowing Policy
   f) Facilitation Payments Guidance
   g) [Bribery Training E-Module]

24 External Sources
   g) Bribery Act Guidance published by the Ministry of Justice

   h) For those with authority to place orders or issue contracts to suppliers or other third parties: The Chartered Institute of Purchasing and Supply (CIPS) Corporate Code of Ethics.
i) For staff who are members of professional bodies, their own codes of ethics with which they are required to comply.

Revised January 2017
Approved by Audit Committee February 2017